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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/481,153 01/12/00 MASTERS

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EXAMINER
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PM82/0907

Jan K. Simpson  
Fulbright & Jaworski LLP  
1301 McKinney Suite 5100  
Houston TX 77010-3095

KENT, C	
ART UNIT	PAPER NUMBER

3635

DATE MAILED:

09/07/00

*6*

**Please find below and/or attached an Office communication concerning this application or proceeding.**

Commissioner of Patents and Trademarks

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# Office Action Summary

Application No.  
09/481,153

Applicant(s)  
Rodney H. Masters et al.

Examiner  
Christopher T. Kent

Group Art Unit  
3635



☒ Responsive to communication(s) filed on Jan 12, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-21 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-8 and 13-21 is/are rejected.

☒ Claim(s) 9-12 is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 5

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## **DETAILED ACTION**

### ***Reissue Application***

This application is acknowledged to be a reissue of application serial number 08/654,730, filed 05/29/96, now U.S. Patent Number 5,732,523.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8, 14-16 and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by document D of the information disclosure statement filed 07/07/2000.

With respect to claims 1-6, document D, detail 1, teaches the species of apparatus having an L-shaped member as claimed.

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With respect to claims 7, 8, 14, 18 and 20, document D, details of the "Stair Tread", the "G-clip" and the "F-clip" meet the limitations these claims. Note that the G-clip is considered to be a type of nut.

With respect to claims 15, 16 and 19 which set forth both L-shaped connectors and plate-type connectors, document D discloses both.

Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by document I of the information disclosure statement filed 07/07/2000. Document I, section B-B, teaches the apparatus having the L-shaped connection.

Claims 1-6 are rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention. This ground of rejection is supported by Applicant's admission and subsequent filing of a disclaimer.

Claims 7, 8 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by document B of the information disclosure statement filed 07/07/2000.

Document B shows an apparatus which meets the limitation of claims 7, 8 and 14. The G-clip is considered to be a type of nut.

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Claims 7 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by document A of the information disclosure statement filed 07/07/2000.

Document A teaches top and bottom plates having a securing mechanism.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 17 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over document D. The substitution of stainless steel for fiberglass would have been obvious to a person having ordinary skill in the art at the time the invention was made, since it represents a mere substitution of known corrosion resistant materials.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over documents A, B, D, or I. See the line of reasoning above for the substitution of stainless steel for fiberglass.

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*Allowable Subject Matter*

Claims 9-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art of record fails to anticipate or render obvious the claimed apparatus including, *inter alia*, the channel secured to the lower surface of the bottom plate.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Kent whose telephone number is (703) 308-2497.

CHRISTOPHER T. KENT  
PRIMARY EXAMINER



Christopher T. Kent  
Primary Examiner  
Technology Center 3600  
September 6, 2000